

AMENDED IN SENATE JANUARY 11, 2000

AMENDED IN SENATE JANUARY 3, 2000

SENATE BILL

No. 663

Introduced by Senator Figueroa

February 24, 1999

An act to amend Section 11713 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 663, as amended, Figueroa. Vehicles: dealers: prohibited activities.

(1) Existing law regulates various activities of motor vehicle dealers, and a violation of those provisions is a misdemeanor under other provisions of existing law.

This bill would prohibit a dealer, except as otherwise specified, from taking a vehicle in trade and failing to tender to the lessor, as specified, or the legal owner of the trade-in vehicle funds necessary to discharge the prior credit or lease balance owing on the trade-in vehicle.

Because a violation of this prohibition would be a misdemeanor under other provisions of existing law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11713 of the Vehicle Code is
2 amended to read:

3 11713. No holder of any license issued under this
4 article may do any of the following:

5 (a) Make or disseminate, or cause to be made or
6 disseminated, before the public in this state, in any
7 newspaper or other publication, or any advertising
8 device, or by public outcry or proclamation, or in any
9 other manner or means whatever, any statement which
10 is untrue or misleading and which is known, or which by
11 the exercise of reasonable care should be known, to be
12 untrue or misleading; or to so make or disseminate, or
13 cause to be so disseminated, any statement as part of a
14 plan or scheme with the intent not to sell any vehicle or
15 service so advertised at the price stated therein, or as so
16 advertised.

17 (b) (1) (A) Advertise or offer for sale or exchange in
18 any manner, any vehicle not actually for sale at the
19 premises of the dealer or available to the dealer directly
20 from the manufacturer or distributor of the vehicle at the
21 time of the advertisement or offer. However, a dealer
22 who has been issued an autobroker's endorsement to his
23 or her dealer's license may advertise his or her service of
24 arranging or negotiating the purchase of a new motor
25 vehicle from a franchised new motor vehicle dealer and
26 may specify the line-makes and models of those new
27 vehicles. Autobrokering service advertisements may not
28 advertise the price or payment terms of any vehicle and
29 shall disclose that the advertiser is an autobroker or auto
30 buying service, and shall clearly and conspicuously state
31 the following: "All new cars arranged for sale are subject
32 to price and availability from the selling franchised new
33 car dealer."



1 (B) As to printed advertisements, the disclosure
2 statement required by subparagraph (A) shall be printed
3 in not less than 10-point bold type size and shall be
4 textually segregated from the other portions of the
5 printed advertisement.

6 (2) Notwithstanding subparagraph (A), classified
7 advertisements for autobrokering services that measure
8 two column inches or less are exempt from the disclosure
9 statement in subparagraph (A) pertaining to price and
10 availability.

11 (3) Radio advertisements of a duration of less than 11
12 seconds that do not reference specific line-makes or
13 models of motor vehicles are exempt from the disclosure
14 statement required in subparagraph (A).

15 (c) Fail, within 48 hours, in writing to withdraw any
16 advertisement of a vehicle that has been sold or
17 withdrawn from sale.

18 (d) Advertise or represent a vehicle as a new vehicle
19 if the vehicle is a used vehicle.

20 (e) Engage in the business for which the licensee is
21 licensed without having in force and effect a bond as
22 required by this article.

23 (f) Engage in the business for which the dealer is
24 licensed without at all times maintaining an established
25 place of business as required by this code.

26 (g) Include, as an added cost to the selling price of a
27 vehicle, an amount for licensing or transfer of title of the
28 vehicle, which is not due to the state unless, prior to the
29 sale, that amount has been paid by a dealer to the state in
30 order to avoid penalties that would have accrued because
31 of late payment of the fees. However, a dealer may collect
32 from the second purchaser of a vehicle a prorated fee
33 based upon the number of months remaining in the
34 registration year for that vehicle, if the vehicle had been
35 previously sold by the dealer and the sale was
36 subsequently rescinded and all the fees that were paid, as
37 required by this code and Chapter 2 (commencing with
38 Section 10751) of Division 2 of the Revenue and Taxation
39 Code, were returned to the first purchaser of the vehicle.

1 (h) Employ any person as a salesperson who has not
2 been licensed pursuant to Article 2 (commencing with
3 Section 11800), and whose license is not displayed on the
4 premises of the dealer as required by Section 11812, or
5 willfully fail to notify the department by mail within 10
6 days of the employment or termination of employment
7 of a salesperson.

8 (i) Deliver, following the sale, a vehicle for operation
9 on California highways, if the vehicle does not meet all of
10 the equipment requirements of Division 12
11 (commencing with Section 24000). This subdivision does
12 not apply to the sale of a leased vehicle to the lessee if the
13 lessee is in possession of the vehicle immediately prior to
14 the time of the sale and the vehicle is registered in this
15 state.

16 (j) Use, or permit the use of, the special plates assigned
17 to him or her for any purpose other than as permitted by
18 Section 11715.

19 (k) Advertise or otherwise represent, or knowingly
20 allow to be advertised or represented on behalf of, or at
21 the place of business of, the licenseholder that no
22 downpayment is required in connection with the sale of
23 a vehicle when a downpayment is in fact required and the
24 buyer is advised or induced to finance the downpayment
25 by a loan in addition to any other loan financing the
26 remainder of the purchase price of the vehicle.

27 (l) Participate in the sale of a vehicle required to be
28 reported to the Department of Motor Vehicles under
29 Section 5900 or 5901 without making the return and
30 payment of the full sales tax due and required by Section
31 6451 of the Revenue and Taxation Code.

32 (m) Permit the use of the dealer's license, supplies, or
33 books by any other person for the purpose of permitting
34 that person to engage in the purchase or sale of vehicles
35 required to be registered under this code, or permit the
36 use of the dealer's license, supplies, or books to operate a
37 branch location to be used by any other person, whether
38 or not the licensee has any financial or equitable interest
39 or investment in the vehicles purchased or sold by, or the
40 business of, or branch location used by, the other person.

(n) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) Sell a previously unregistered vehicle without disclosing in writing to the purchaser the date on which any manufacturer's or distributor's warranty commenced.

(p) Accept a purchase deposit relative to the sale of a vehicle, unless the vehicle is present at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time the dealer accepts the deposit. Purchase deposits accepted by an autobroker when brokering a retail sale shall be governed by Sections 11736 and 11737.

(q) Consign for sale to another dealer a new vehicle.

(r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.

(s) (1) Take a vehicle in trade and fail to tender to the lessor registered in accordance with Section 4453.5 or the legal owner, as the case may be, of the trade-in vehicle funds necessary to discharge the prior credit or lease balance owing on the trade-in vehicle.

(2) A licensee is not in violation of this subdivision if ~~all of the following applies:~~

~~(A) The licensee and trade-in customer have agreed to terms or conditions which relieve the licensee of the obligation to tender funds to the legal owner or lessor.~~

~~(B) The terms and conditions which relieve the licensee of the obligation to tender funds to the legal owner or lessor are set forth on the face of the contract of purchase or lease in at least 10-point bold type and underlined.~~

~~(C) The licensee complies with the terms or conditions described in subparagraph (B); the contract is~~

1 *rescinded on any of the grounds set forth in Section 1689*
2 *of the Civil Code.*

3 SEC. 2. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution because the only costs that may be incurred
6 by a local agency or school district will be incurred
7 because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition
11 of a crime within the meaning of Section 6 of Article
12 XIII B of the California Constitution.

